Supreme Court, U.S.
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NO. 97-1988

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

CARMEN REOGAS, WANDA GIBSON AND KAREN HOWARD,

PetitionerS

versus

JIMMY GRAY and MONARCH TILE, INC.,

Respondents

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI OF RESPONDENT, JIMMY GRAY

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QUESTIONS PRESENTED

None of the questions presented specifically relates to Respondent, Jimmy Gray (Gray), an employee of Respondent, Monarch Tile, Inc. (Monarch). Each of the questions presented addresses "notice" issues which are relevant only to Respondent, Monarch.

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Respondent, Jimmy Gray, respectfully urges this Court to deny Petitioners' request that a Writ of Certiorari be issued.

OPINIONS BELOW

Respondent, Gray, adopts Petitioners' statement regarding the opinions below as set forth in their Petition for Writ of Certiorari.

STATEMENT OF JURISDICTION

Respondent Gray adopts Petitioners' Statement of Jurisdiction as set forth in their Petition for Writ of Certiorari.

STATUTORY PROVISIONS INVOLVED

Respondent Gray adopts Petitioners' statement as to the statutory provisions involved as set forth in their Petition for Writ of Certiorari but notes that the allegations with regard to Respondent Gray are predicated upon state law claims of (a) assault and battery and (b) invasion of privacy.

STATEMENT OF THE CASE

Respondent Gray adopts the Statement of the Case as set forth by Petitioners in their Petition for Writ of Certiorari.

REASONS FOR DENYING THE WRIT

Petitioners submit that their Petition for Writ of Certiorari should be granted under the rationale of Farragher v. The City of Boca Raton, __S.Ct.__ (1998 WL 336322).

AS TO RESPONDENT GRAY, FARRAGHER IS NOT APPLICABLE AS GRAY IS NOT THE EMPLOYER TO WHOM THE NOTICE APPLIES.

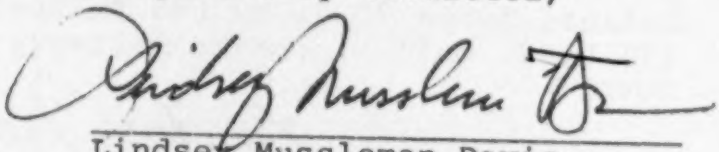
Further, Judge Blackburn's well reasoned and thorough decision granting summary judgment as to Gray did not turn upon notice but rather failure of the Petitioners' allegations to meet the legal muster required for legally sustainable claims of assault and battery and invasion of privacy. (Petitioners' Petition for Writ of Certiorari at 43a - 49a).

Judge Blackburn's decision carefully dissects the elements required under applicable law and interfaces them with the evidence in the case. From this, Judge Blackburn correctly held that Petitioners, Reogas and Gibson, failed to meet the requisite burden of proof and properly granted summary judgment in favor of Respondent Gray.

CONCLUSION

Judge Blackburn's decision is legally sound and, hence, Petitioners' request for an issuance of a Petition for Writ of Certiorari is due to be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 1998, three (3) complete copies of the foregoing document has been served on Hon. J. Wilson Mitchell, YATES, MITCHELL, BERNAUER, WINBORN & MORTON, P. O. Drawer 10, Florence, AL 35631 and Hon. Allan G. King, LITTLER & MENDELSON, @))L Ross Avenue, Suite 2600, Dallas, Texas 75201 by the following:
(X) U. S. Mail ( ) Hand Delivery ( ) In Open Court

Lindsey Mussleman Davis